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11 Attorneys for Petitioner,
12 OSCAR GATES

13 UNITED STATES DISTRICT COURT
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 COLLEEN MARY ROHAN, ex rel. OSCAR GATES,

16 Petitioner,

17 v.

18 KEVIN CHAPPELL,
19 Warden, California State Prison at San Quentin,

20 Respondent.

C88-2779 WHA

DEATH PENALTY CASE

PARTIES' STIPULATION
AND ~~PROPOSED~~
ORDER
(N.D.L.R. 5-1(i)(3), 7-11,
7-
12)

21 TO: THE HONORABLE WILLIAM H. ALSUP, UNITED STATES DISTRICT JUDGE;
22 GREGG ZYWICKE, DEPUTY ATTORNEY GENERAL; AND TO RICHARD W. WIEKING,
23 CLERK OF THE UNITED STATES DISTRICT COURT:

24 Pursuant to Northern District Local Rules, Rules 7-11 and 7-12, and the Court's January
25 14, 2013, Order, the parties hereby present this stipulation and proposed Orders.

26 On January 14, 2013, this Court issued an Order, see Doc. 580, directing that within
27 thirty days, the parties meet and confer regarding whether the stay in this matter should be lifted
28 and either submit a joint request to lift the stay and proposed litigation schedule, or, if in
disagreement regarding whether the stay should be lifted, submit opening cross-pleadings
regarding the impact of *Ryan v. Gonzales*, 2013 WL 68690 (U.S., Jan. 8, 2013), and submit
cross-replies fifteen days thereafter.

1 The parties have communicated by telephone and e-mail several times, met and conferred
 2 on January 24, 2013 and have scheduled a follow-up meet and confer session for January 31,
 3 2013. Either a joint request or opening cross-pleadings are currently due February 13, 2013.

4 Respondent's counsel, John H. Deist and Gregg Zywicke have advised that Mr. Deist is
 5 withdrawing from the case and that Mr. Zywicke will continue as respondent's counsel.

6 Counsel for both parties had substantial, pre-existing obligations in other capital and non-
 7 capital matters when the January 14, 2013 Order issued, which will continue well beyond
 8 February 13, 2013. Retrieval and preliminary review of the files here will be somewhat time-
 9 consuming, as will preparation of any cross-pleadings.

10 Petitioner's counsel therefore seek a fourteen day extension of time as to each of the acts
 11 directed in the Court's Order, i.e., through and including February 27, 2013, for the parties to
 12 either file a joint request and proposed litigation schedule or opening cross-pleadings, with cross
 13 replies to be submitted fifteen days thereafter.

14 Respondent's counsel has no opposition to this request and stipulates to the Court granting
 15 it. Per N.D. Local Rules, rule 5-1 (i) (3), I attest that concurrence in the filing of the document
 16 has been obtained from each of the other signatories listed below.

17 Petitioner will be glad to submit a more detailed showing if the Court finds that
 18 appropriate. There have been no prior requests to extend these dates and the time requested is
 19 relatively brief.

20 Per N.D. Local Rules, rule 7-12, a proposed Order is provided on the following page.

21 **STIPULATION**

22 It is so stipulated.

23
 24 DATED: January 24, 2013

/s/ Gregg Zywicke
 GREGG ZYWICKE
 Deputy Attorney General,
 Counsel for Respondent

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 26 ///

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 28 ///

1 It is so stipulated.


2 DATED: January 24, 2013

(By) /s/ William L. Osterhoudt
WILLIAM L. OSTERHOUDT
TIM BROSNAN
Counsel for Petitioner,
OSCAR GATES

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7 ~~(Proposed)~~ ORDER

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9 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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11 DATED: January 29, 2013


HONORABLE WILLIAM H. ALSUP
UNITED STATES DISTRICT JUDGE